

REMARKS

The present application was filed on May 22, 2000 with claims 1-31. Claims 1-31 remain pending. Claims 1, 8, 13, 15, 22, 27 and 29-31 are the pending independent claims.

In the outstanding final Office Action dated August 10, 2004, the Examiner rejected claims 1-31 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,867,799 to Lang et al. (hereinafter "Lang").

With regard to the rejection of claims 1-31 under 35 U.S.C. §102(b) as being anticipated by Lang, Applicants assert that such claims are patentable for at least the reasons presented below.

It is well-established law that "[a] claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference." See, e.g., *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See also, M.P.E.P. §2131. Appellants assert that Lang fails to teach or suggest each and every element respectively recited in claims 1, 8, 13, 15, 22, 27 and 29-31 and, thus, the §102(b) rejection of claims 1-31 based on Lang clearly fails to meet the above legal requirements for anticipation. Support for this assertion follows.

Independent claims 1, 15 and 29 of the present invention recite techniques for recognizing one or more end-user transactions, which originate at a client workstation, from one or more remote procedure calls. The remote procedure calls are obtained, and the end-user transactions from the remote procedure calls are recognized based on training data associated with remote procedure calls. At least a portion of the results that are associated with the end-user transaction recognition operation are stored in a memory.

As provided on page 1 of the specification, an end-user transaction comprises a sequence of commands that an end user issues to a work station, such as, for example, opening a database, opening a view, reading several records and closing the database. In response to these commands remote procedure calls are sent from a workstation to a server.

Lang discloses a system for filtering a massive flow of information entities to meet user information classification needs. A data stream from a computer network that contains raw information relevant to the user is adaptively filtered in response to a dynamic characterization,

producing information that is provided to the user. A feedback profile is received from the user, responsive to the proposed information. The feedback is used to adapt the content profiles and collaboration profiles, which are then used to update the dynamic characterization.

Lang fails to disclose the recognition of end-user transactions from remote procedure calls based on training data associated with remote procedure calls. Lang filters information from a data stream that may be desired by a user and then presents that filtered information to the user for feedback. Probabilistic techniques of Lang consider the probability that the filtered information satisfies the users informational need. This differs from the claimed invention in that the claimed invention recognizes an end-user transaction from remote procedure calls based on training data associated with remote procedure calls. Lang is silent as to any such recognition involving end-user transactions and remote procedure calls.

In response to Applicants' previous arguments, the Examiner contends on page 17, paragraph 2, of the final Office Action that FIG. 1 of Lang discloses a network "in which conceivably remote analysis can be implemented." Applicants contend that the disclosure of a user and a server does not provide proper support for a §102(b) rejection of a claim reciting the recognition of end-user transactions from one or more remote procedure calls.

Further, in the final Office Action the Examiner contends that Lang discloses the use of training sets. In the portions of Lang referred to by the Examiner, training sets are used in the learning of TF-IDF or MDL approaches. TF-IDF is a weighting scheme that gives emphasis to weighting parameters for more important terms in information relevant to the user. MDL is a probabilistic technique that attempts to minimize the description length of an entire data set. Thus, the use of training sets in Lang differs significantly from the recognition of one or more end-user transactions from one or more remote procedure calls based on training data associated with one or more of the remote procedure calls, as recited in independent claims 1, 15 and 29 of the present invention.

The Examiner also contends on page 17, paragraph 2, of the final Office Action that an association "can be conceived of a training data or stream conveyed through the global internet or distributed resources system . . ." Again, such arguments do not support a §102(b) rejection. The

Examiner refers to portions of Lang that disclose an information filtering apparatus, and describe the conveyance of information through a network that provides for communication between users or resources and includes a storage means. This disclosure in Lang fails to describe the obtaining of remote procedure calls and the recognition of end-user transactions based on training data associated with the remote procedure calls. Lang also fails to describe a memory for storing results associated with the end-user transaction recognition operation. Thus, Lang fails to teach or suggest each and every element respectively recited in claims 1, 15 and 29 and, the §102(b) rejection based on Lang clearly fails to meet the above legal requirements for anticipation.

Further, Lang does not contain the disclosure which is necessary to support a claim rejection on the basis of inherency. According to the Court of Customs and Patent Appeals (CCPA), “Inherency does not mean that a thing might be done, or that it might happen, ...; but it must be disclosed, if inherency is claimed, that the thing will necessarily happen.” *In re Draeger et al.*, 150 F.2d 572, 574 (CCPA 1945) (emphasis supplied). Furthermore, the well settled law “requires that inherency may not be established by possibilities and probabilities. The evidence must show that the inherency is necessary and inevitable.” *Interchemical Corp. v. Watson*, 145 F.Supp. 179, 182, 111 USPQ 78, 79 (D. D.C. 1956) (emphasis supplied), *aff’d*, 251 F.2d 390, 116 USPQ 119 (D.C. Cir. 1958).

Additionally, “in relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). No such basis and/or technical reasoning has been provided by the Examiner in the final Office Action.

Independent claims 8, 22 and 30 of the present invention recite techniques for generating a model for recognizing end-user transactions from remote procedure calls received at a server from a workstation. Remote procedure calls labeled with end-user transactions are obtained, and selected features are computed from these remote procedure calls. The model is constructed from the selected features.

Lang does not disclose the generation of a model for recognizing user transactions from remote procedure calls, as in the claimed invention. Lang also fails to disclose the computation of selected features from remote procedure calls labeled with end-user transactions, as in the claimed invention. Finally, Lang fails to disclose the construction of a model from these selected features, as in the claimed invention. Thus, Lang fails to teach or suggest each and every element respectively recited in claims 8, 22 and 30 and, the §102(b) rejection based on Lang clearly fails to meet the above legal requirements for anticipation.

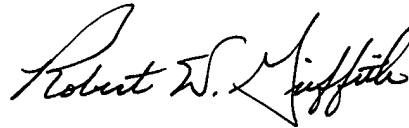
Independent claims 13, 27 and 31 of the present invention recite techniques for automatically generating training data used to construct a model for use in recognizing end-user transactions from remote procedure calls received at a server from a workstation. A client workstation marks the beginning and end of user transactions which are correlated with remote procedure calls to generate remote procedure calls labeled with end-user transactions. These labeled remote procedure calls serve as training data.

Lang fails to disclose the automatic generation of training data for constructing a model for use in recognizing end-user transactions, as in the claimed invention. Further, Lang also fails to disclose the marking of the beginning and end of user transactions and correlating with remote procedure calls to generate labeled remote procedure calls, as in the claimed invention. Thus, Lang fails to teach or suggest each and every element respectively recited in claims 13, 27 and 31 and, the §102(b) rejection based on Lang clearly fails to meet the above legal requirements for anticipation.

In addition, Applicants submit that claims 2-7, 9-12, 14, 16-21, 23-26 and 28 are patentable over the cited reference not only due to their respective dependence on claims 1, 8, 13, 15, 22 and 27, but also because such claims recite patentable subject matter in their own right.

In view of the above, Applicants believe that claims 1-31 are in condition for allowance, and respectfully request withdrawal of the §102(b) rejection.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert W. Griffith". The signature is fluid and cursive, with the first name "Robert" and last name "Griffith" being clearly legible.

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